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RECENT CASES.

BAILMENT.

Garnishment—City Funds in the Hands of Officer.—Marx et al. v. Parker et al., 37 Pac. Rep. 675. Action was brought against the defendant—a city marshal—and the plaintiff, to satisfy the judgment debt, garnisheed public funds deposited by the defendant in a bank. The Court held, that, where an officer holds public funds, whether required to give bond or not, he is to be considered as a bailee subject to strict accountability, and not as a debtor with title to the funds.

Election of Remedies.—Miller v. Hyde, 37 N. E. Rep. 760 (Mass.), Judgment was recovered in an action of trover against the bailee of a horse, who had sold the animal and appropriated the proceeds to his own use. The estate of the bailee proving worthless, execution was levied on the horse, which, however, was taken on replevin, before sale, by the defendant's vendee. The modern doctrine in trover being that judgment and satisfaction, not judgment alone, vest the title in the defendant, the plaintiff was not estopped from recovering the property by replevin.

Bailment—Money Collected by Officer of Corporation—Evidence.—Carico v. Fidelity Investment Co., 37 Pac. Rep. 29 (Col.). It is not a good defense for an officer of a corporation to set up that his services as secretary were gratuitous, and that the money, which passed through his hands to the treasurer, was stolen from his safe before he paid it over to the treasurer, if the evidence shows a mixing and confusion of such money with defendant's, or that there was unnecessary delay in paying over such money after demanded. The changing and confusing it with his own money amounted to a conversion, and hence at the time of the alleged robbery he was not a bailee but the debtor of the company for the amount.

CONSTRUCTION OF STATUTES.

Street Railroads—Compensation for Use of Streets—Connecting Routes—Construction of Statutes.—Mayor, etc., of City of New York v. Manhattan Ry. Co., 37 N. E. Rep. 494 (App.). This was an action against the Manhattan Railway Co. as lessee and successor of the New York Elevated Railroad Co., for an accounting. Under Laws

1867, c. 489, § 9, it was provided that the railroad company authorized by it to construct its roads in certain streets, shall pay 5 per cent of its net income "into the treasury of New York in such manner as the Legislature shall hereafter direct, as a compensation." Upon this point it was held that the obligation of the company to pay the 5 per cent did not become fixed until the Legislature directed the mode of payment (reversing 25 N. Y. Supp. 860). This action was further brought for an accounting of the profits of Manhattan Railway Co.'s connecting routes; under the Rapid Transit Act (Laws 1895, c. 606, § 36) roads already in operation were permitted to construct connecting routes having all the rights as if "the same had been a part of the original route of such railway." It was held that where a company, whose road was built under the authority of the act of 1867, "constructed connections under the rapid transit act, that it was not obliged to pay the city 5 per cent of the earnings of the connecting routes."

Excessive Assessments—Recovery of Excess Paid—Limitations.—*Groesbeck v. City of Cincinnati*, 37 N. E. Rep. 707 (Ohio). When a statute provides that action on money paid under an illegal assessment must be brought within one year from the date of payment, it bars recovery after that date, although the illegality was not discovered until the limit had run, and a penalty would have been incurred by non-payment.

Insolvent Estates—Outlawed Claims.—*Parsons v. Parsons*, 29 Atl. Rep. 999 (N. H.). A statute providing that outlawed claims against estates may be presented in courts of equity was copied from the laws of another State in which the procedure was similar. The Court held that it did not include insolvent estates, being governed by the construction placed on the original statute; the fact that it had been copied sufficiently showing an intention to confine it to claims of the same nature.

Pleading.—*Postal Telegraph Cable Co. v. Mayor, etc., of Baltimore*, 29 Atl. Rep. 819. Act of Congress (July, 1866, title 65, U. S. Rev. St.) which permits use of post roads for operation of telegraph lines is not supposed to confer upon a telegraph company any power to use streets of city without compensation.

Sheriff—Board of Prisoner—Authority to Contract for Merchandise.—*State ex rel. Coughlin v. Board of Commissioners of Washoe County*, 37 Pac. Rep. 486 (Nev.). This was an application for a writ of *certiorari* by the State of Nevada, *ex rel.* W. H. Coughlin